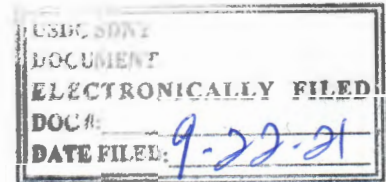


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



----- X
CERVECERÍA MODELO DE MÉXICO,
S. DE R.L. DE C.V.,

Plaintiff,

v.

CB BRAND STRATEGIES, LLC,
CROWN IMPORTS LLC, and
COMPAÑÍA CERVECERA DE
COAHUILA, S. DE R.L. DE C.V.,

Defendants.
----- X

No. 21-CV-7316-LAK

MEMO ENDORSED

STIPULATION AND ~~PROPOSED~~ ORDER

The parties to this Action, through their respective counsel, stipulate and agree to the following:

WHEREAS, on August 31, 2021, Plaintiff Cervecería Modelo de México, S. de R.L. de C.V. ("Modelo") filed the Complaint in the above-captioned action (*see* ECF No. 1);

WHEREAS, Modelo's Complaint seeks, among other things, to enjoin Defendants from producing, marketing, or selling Defendants' "Modelo Reserva" products, namely the "Tequila Barrels Beer" and the "Bourbon Barrels Beer" (as defined in Modelo's Complaint, *see id.* at ¶ 1);

WHEREAS, on September 10, 2021, Defendants, through counsel, represented that for reasons that Defendants assert are unrelated to Modelo's claims, the Bourbon Barrels Beer has been discontinued (the Parties dispute the cause for that withdrawal);

WHEREAS, on September 16, 2021, Modelo filed a Motion for Preliminary Injunction seeking to enjoin Defendants from producing, marketing or selling the Tequila Barrels Beer until the Court can have a trial on the merits (*see* ECF Nos. 19-20);

WHEREAS, in reliance upon the representation that Defendants have discontinued selling the Bourbon Barrels Beer, Modelo directed its Motion for Preliminary Injunction only to the Tequila Barrels Beer, while reserving all rights with respect to the Bourbon Barrels Beer;

WHEREAS, on September 16, 2021, Modelo filed a Motion for Expedited Discovery seeking the Court's permission to take expedited discovery of Defendants in connection with the concurrently-filed motion for preliminary injunction (*see* ECF Nos. 21-22);

WHEREAS, on September 17, 2021 and September 21, 2021, Defendants, through counsel, represented that (i) Defendants have stopped producing and selling the Tequila Barrels Beer to distributors for reasons that Defendants assert are unrelated to Modelo's claims; (ii) Defendants are not currently developing or planning on releasing any new advertisements for Modelo Reserva; and (iii) Defendants are currently scheduled to meet with the Consejo Regulador del Tequila (the "CRT") on Wednesday, September 22, 2021 to discuss Defendants' Tequila Barrels Beer for reasons that Defendants assert are unrelated to Modelo's claims;

WHEREAS, for the avoidance of doubt, Modelo does not agree with Defendants' assertions regarding whether any conduct described in this Stipulation is "unrelated to Modelo's claims";

WHEREAS, Defendants' currently scheduled September 22, 2021 meeting with the CRT is likely to inform how Defendants decide to proceed with respect to their Tequila Barrels Beer and the claims raised in Modelo's Complaint; and

WHEREAS, to economize both judicial and party resources, the parties wish to agree upon a procedure that allows Defendants to first meet with the CRT and decide how to proceed before Defendants respond to Modelo's Motion for Preliminary Injunction, Motion for Expedited Discovery, and Complaint;

WHEREFORE, the Parties hereby STIPULATE AND AGREE, and it is hereby ORDERED, as follows:

1. Modelo's Motion for Preliminary Injunction (ECF Nos. 19-20) and Motion for Expedited Discovery (ECF Nos. 21-22) ~~shall be held in abeyance until further notice by Modelo to this Court.~~

2. Within three business days of meeting with the CRT, Defendants shall provide written notice to Modelo regarding whether Defendants will resume producing, marketing, advertising or selling, the Tequila Barrels Beer to distributors. Such notice shall identify when advertising or sales will resume.

3. Upon receipt of Defendants' notice, the Parties shall promptly meet and confer regarding (i) whether the issues raised by Modelo's Motion for Preliminary Injunction and Motion for Expedited Discovery still require adjudication; and (ii) to the extent Modelo believes that any of such issues do still require adjudication, a schedule and procedure pursuant to which the Parties shall complete the briefing on Modelo's Motion for Expedited Discovery and Motion for Preliminary Injunction.

4. Within three business days of receipt of Defendants' notice, the Parties shall notify the Court of (i) whether Modelo elects to ~~proceed with~~, amend, ~~or withdraw~~ its Motion for Preliminary Injunction and its Motion for Expedited Discovery; and (ii) the Parties' proposed schedule and procedure for resolving any motion that still requires adjudication. To the extent the parties cannot agree, the Parties shall follow the Local Rules of the United States District Court for the Southern District of New York and this Court's Individual Rules of Practice.

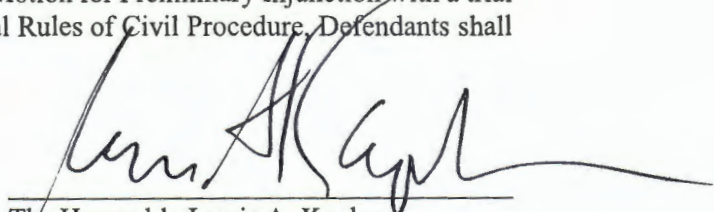
is denied without prejudice to renewal on the lasting papers upon filing by Modelo of notice to that effect.

not to renew

5. In the event Modelo elects to ~~withdraw~~ its Motion for Preliminary Injunction, Defendants shall answer the Complaint within 30 days of such election.

6. In the event Modelo elects to ~~proceed with~~ renew or amend its Motion for Preliminary Injunction, Defendants shall respond to the Complaint within 30 days after the Court issues a decision on Modelo's Motion for Preliminary Injunction; *provided, however*, that to the extent the Court decides to consolidate a hearing on Modelo's Motion for Preliminary Injunction with a trial on the merits pursuant to Rule 65(a)(2) of the Federal Rules of Civil Procedure, Defendants shall answer the Complaint at least 15 days before trial.

Dated: 9/22/21


The Honorable Lewis A. Kaplan
United States District Judge

CONSENTED TO:

/s/ Michael H. Steinberg

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